

FILED

JUL 21 2009

**Clerk, U.S. District and
Bankruptcy Courts**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JUDICIAL WATCH, INC.)
501 School Street, S.W., Suite 700)
Washington, DC 20024,)

Plaintiff,)

v.)

U. S. DEPARTMENT OF JUSTICE)
950 Pennsylvania Avenue, N.W.)
Washington, DC 20530-0001,)

Defendant.)

Case: 1:09-cv-01353
Assigned To : Kollar-Kotelly, Colleen
Assign. Date : 7/21/2009
Description: FOIA/Privacy Act

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Plaintiff Judicial Watch, Inc. brings this action against Defendant United States Department of Justice to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"). As grounds therefor, Judicial Watch, Inc. alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Judicial Watch, Inc. is a non-profit, educational organization incorporated under the laws of the District of Columbia and having its principal place of business at 501 School Street, S.W., Suite 700, Washington, DC 20024.

4. Defendant United States Department of Justice is an agency of the United States Government. Defendant has its principal place of business at 950 Pennsylvania Avenue, N.W., Washington, DC 20530-0001. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On June 18, 2009, Plaintiff sent a FOIA request to Defendant, by facsimile and by certified U.S. mail, return receipt requested, seeking access to the following records:

Any and all records concerning contact between the Department of Justice and any non-governmental third party regarding Rodearmel v. Clinton, Case No. 09-00171 (D.D.C.), including but not limited to the preparation and filing of an amicus brief.

6. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant was required to respond to Plaintiff's request within twenty (20) working days, or on or before July 17, 2009, at the latest.

7. As of July 21, 2009, Defendant has failed to produce any records responsive to Plaintiff's request or demonstrate that responsive records are exempt from production. Nor has it indicated whether or when any responsive records will be produced.

8. Because Defendant failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A)(i), Plaintiff is deemed to have exhausted any and all administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C).

COUNT 1

(Violation of FOIA)

9. Plaintiff realleges paragraphs 1 through 8 as if fully stated herein.

10. Defendant has violated FOIA by failing to respond to Plaintiff's June 18, 2009 request.

11. Plaintiff is being irreparably harmed by reason of Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with the requirements of FOIA.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendant's failure to comply with FOIA to be unlawful; (2) order Defendant to search for and produce any and all non-exempt records responsive to Plaintiff's June 18, 2009 request and a *Vaughn* index of allegedly exempt records responsive to the request by a date certain; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the request; (4) grant Plaintiff an award of attorney's fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: July 21, 2009

Respectfully submitted,

JUDICIAL WATCH, INC.

A handwritten signature in black ink, appearing to read "Paul J. Orfatedes", written over a horizontal line.

Paul J. Orfatedes

D.C. Bar No. 429716

A handwritten signature in black ink, appearing to read "James F. Peterson", written over a horizontal line.

James F. Peterson

D.C. Bar No. 450171

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Attorneys for Plaintiff